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**Testimony
of**

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**Before
the**

**House Transportation and Infrastructure
Aviation Subcommittee**

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Chairman Mica, Ranking Member De Fazio, Members of the Subcommittee, it is an honor and a privilege to speak with you today about reauthorization of the Federal Aviation Administration (FAA) and relevant aviation programs, particularly from the perspective of the nearly 7,400 Member Companies and the broader business aviation community represented by the National Business Aviation Association.

NBAA commends the Subcommittee for playing an instrumental role in development of the previous landmark legislation in this context, *AIR-21* (the *Wendell H. Ford Aviation Investment and Reform Act for the 21st Century*). Key provisions of that legislation included significant protection of the Airport and Airway Trust Fund and providing for record Airport Improvement Program (AIP) funding. The past chairman of this subcommittee, Congressman John Duncan, emphasized that the new law mandated the largest investment in general aviation airports in history.

Much of the planning for implementation of *AIR-21* unraveled after the tragic events of September 11, 2001. The tremendous financial commitment needed to increase aviation security required airports and airlines to reevaluate capital spending and investment. AIP funds, readily available and sufficiently funded, provided the necessary monies for airport security projects. However, the AIP resources cannot and should not continue to support funding for outstanding security modifications and on-going security modernization. FAA's next reauthorization must ensure, once again, that the AIP is used for its original purpose; to enhance airport capacity and viability.

Today I will address several areas of great importance to the business aviation sector of general aviation.

Safety and Security

Safety has been and continues to be the primary focus for NBAA and the business aviation community. Even in the post-9/11 environment, safety should never take a second seat to security. If we cannot ensure the safety of aviation operations, this form of transportation will fail to realize its potential for facilitating our Nation's economic and social goals.

A critical program that contributes directly to increasing aviation's safety record is the NASA Aviation Safety Reporting System (ASRS). While not directly authorized by this committee, we urge you to work with the Committee on Science to increase funding for this program. ASRS provides a non-punitive reporting system for events that occur within the aviation system. ASRS receives, processes and analyzes voluntarily-submitted incident reports from pilots, air traffic controllers, and others. Reports submitted to ASRS describe both unsafe occurrences and hazardous

situations. ASRS's particular concern is the quality of human performance in the aviation system. Without additional funding this program will be forced to reduce or eliminate vital safety services that benefit all of aviation.

The Administration's Fiscal Year 2004 budget request of \$100 million to fund research, engineering and development is barely half of that committed in 2002. We must continue our strong investment in aviation research. Recent achievements as a result of commitments in research include:

- Development of the National Convective Weather Forecast product to allow commercial and private pilots to chart their way around hazardous weather across the United States.
- Safe Flight 21 and the use of ADS-B and GPS to improve safety and to increase capacity at hub airports.
- Enhancing airport pavement markings with LEDs to improve visual cues needed for safe airport operations.
- Internet based reporting system for wildlife strikes to aircraft, annually costing \$300 million in damage and a half-million hours in aircraft down-time. The data are used to help pilots and airports mitigate wildlife strikes.

NBAA's own efforts to increase safety include the development of posters, now found at every training center across the United States, that raise the awareness of pilots of factors contributing to approach and landing accidents.

Business aviation's commitment to safety has resulted in the lowest accident rate for any segment of aviation over the past three years, averaging just over 0.11 accidents for every 100,000 hours flown. This is a remarkable achievement and, in fact, Calendar Year 2002 was one of the safest years on record for corporate and executive flights. This is, in large part, a result of an inherent safety culture that includes training provided by companies for flight deck and cabin crews, maintenance technicians, schedulers and dispatchers and ground crew that far exceeds that required by any Federal regulation. FAA's Safer Skies program also is a positive contribution to aviation's safety record.

Clearly, every aspect of aviation has suffered since 9/11/01. Arguably, general aviation has been faced with more restrictions than any other sector of aviation in the post-9/11 environment. Security is now on the mind of every general aviation pilot and is part of every pre-flight plan. A Temporary Flight Restriction (TFR) seems to be the tool of choice for some mayors and governors trying to address constituent concerns about security. Unfortunately, a TFR used impulsively, and not developed to address a specific threat, only hurts law-abiding Americans with a need and desire

to fly. Furthermore, only the Federal government, through the TSA and the FAA, should direct the establishment of security regulations and procedures.

As we saw recently in Chicago, the use of a TFR even contributed to the destruction of an airport --- Meigs Field. This abominable example of a mayor usurping Federal authority in the name of homeland security has become a consideration, albeit to a lesser degree so far, across the country. Teterboro Airport in New Jersey, a vital public facility providing access to New York City and serving as an important reliever for general aviation traffic from the area's three commercial service airports, faces continued threats from those who would close or restrict access to the airport in the name of security. Just last Thursday, during Congressional consideration of legislation to provide significant funding for America's continued involvement in Iraq, an amendment was offered and subsequently withdrawn that sought flight restrictions inhibiting general aviation aircraft within a 15 mile radius of New York City.

Without clear guidance from this body and from the Administration, general aviation airports across the country face a patchwork of restrictions imposed by local, state and possibly federal mandates. This subcommittee, so instrumental in the creation of the Transportation Security Administration and the Department of Homeland Security, must act to ensure that airports are not sacrificed by those who would use the guise of security to achieve their political agenda.

Airport Investment and Access

Although we express strong support for significant and timely investment in the nation's airports, particularly general aviation facilities, NBAA reiterates our long-standing view that funding airport capacity enhancement means nothing without fair and reasonable access. We reaffirm our strong support for FAA's sponsor assurances agreements that are an integral part of each and every grant application made by airport operators. More specifically, airport access is one of NBAA's primary concerns in that our Member Companies are entitled to fair and reasonable access without unjustly discriminatory local access regulations. We view the grant agreements between airports and the FAA with the same importance as we view increased and accelerated airport funding.

The FAA's contract tower program continues to be a shining example of innovative government and industry partnerships that increase safety while decreasing cost to the taxpayer. A total of 219 airports were participating in the program as of January 1, 2003. The contract tower program protects many airports that would otherwise lose this valuable safety component. These Level I towers provide a high degree of customer service and additional safety to operations on and around an airport. In

fact, ironically, the contract tower at Chicago's Meigs Field contributed just last Thursday to the prevention of a near miss over Lake Michigan. (And, also ironically, it is our understanding that the tower has been closed because of what the Mayor of Chicago did in the name of security to the runway at Meigs Field.) In addition to the cost savings provided to the Federal government by contract towers, we should not forget that contract towers receive continuous oversight and monitoring by FAA and all contract controllers are certified by the Agency. We recommend continued and increased funding for the contract tower program. Despite the current challenges faced by our nation's scheduled airlines, air travel will at some point return to the historic levels of the summer of 2000. As airlines continue to rely on the nation's large, medium and small hub airports, general aviation airports will play an even greater role in capacity enhancements for the air traffic system.

General aviation airports provide necessary alternatives for non-airline traffic. Imagine the delays that would be caused if all general aviation airports around Minneapolis-St. Paul were closed and all flight training, on-demand air charter, and corporate flights were forced to share one airport with the scheduled airlines. Increased funding for small and general aviation airports maximizes the benefits of Federal investment in aviation infrastructure by tailoring facilities to best meet the needs of the flying public.

Safety and security projects at general aviation airports also face competition for scarce resources. Without the ability to assess a passenger facility charge, most general aviation airports rely substantially, if not totally, on money provided through the AIP. Legislation in *AIR-21* authorized up to \$150,000 for projects at general aviation airports. We must increase this level of funding. Further, NBAA recommends increasing the state entitlement for general aviation airports from 20% to 21%. And, the Association recommends an increase in the number of permits for innovative financing for small hub, non-hub and general aviation airports to 25.

Funding FAA

AIR-21 not only provided record funding levels and "unlocked" the resources collected specifically for aviation system improvements, but it also was a multi-year authorization that enabled future planning beyond a single fiscal year. As everyone knows, *AIR-21* expires on September 30, 2003, and NBAA asserts that the Nation's aviation system deserves another multi-year funding program that maintains and goes beyond current budget levels. The value of the aviation infrastructure to the Nation's economy and quality of life makes a compelling argument for accelerating the investment, as well. These points are supported in the report by DRI-WEFA, Inc., in conjunction with the Campbell-Hill Aviation Group, Inc., entitled, "The National Economic Impact of Civil Aviation." That report highlighted a total annual impact

exceeding \$900 billion, 12 percent attributable to general aviation, and 11 million jobs. Conservatively, the analysis also shows that every dollar invested in the aviation infrastructure generates more than \$4.50 in benefits for the U.S. economy.

Today, a relatively small portion of the FAA's funding comes from general taxpayer revenues. This "general fund" contribution reflects the use of the system by the military and the Federal government as well as the many benefits that the general public receives from a safe and efficient air transportation system. Thus, NBAA recommends that the Subcommittee's successful efforts to unlock the trust fund be accompanied by a firm resolve to maintain the critical and appropriate general fund contribution.

We also feel strongly about the need for continued Congressional oversight of FAA spending. Additional revenue is of little use if it is diverted from critical capital improvements. Besides the issue of security costs, NBAA is concerned about skyrocketing operating costs, as well. Unfortunately, desperately needed capital funds are currently being shifted to cover the ever-increasing expenses required to maintain today's air traffic control system and to keep pace with increasing labor costs. Congress must help FAA contain its operating expenses, while addressing the security costs that have been passed on to those who use the aviation system, to ensure that additional revenues are being spent on the critical needs of the air transportation system. This will protect the public's investment in aviation as a national resource.

In this context, as Members of this subcommittee know, general aviation contributes to operations of the FAA and the air transportation system through payment of taxes on aviation fuel. Despite the proven effectiveness of the fuel tax, some still suggest replacing the fuel tax with complicated user fees. NBAA wholeheartedly agrees with the National Civil Aviation Review Commission, chaired a number of years ago by current Secretary of Transportation Norm Mineta, that general aviation, including business aviation, plays an important and unique role in the nation's air transportation system and should continue to make its contributions to funding the FAA through the efficient and appropriate tax on general aviation fuel.

Although there doesn't appear to be any user fee threat, especially in light of the Administration's reauthorization proposal, NBAA would like to make a few observations in this regard for the record. Risky user fee schemes would create a series of unintended consequences that could devastate the general aviation community. And, until the FAA can accurately account for each user's cost on the aviation system and implement a collection system that is more efficient than today's tax on aviation fuel, NBAA will continue to oppose any proposal that funds the FAA through user fees. NBAA believes those unintended consequences are as follows:

- Detrimental safety effects could result from placing a price on airspace system use. User fees would discourage pilots from filing flight plans, checking the weather, or contacting the tower. The current system avoids such risks.
- A user fee system would reduce, if not eliminate, the incentive for the FAA to operate more efficiently. After all, what incentive is there to change an operation that produces revenue even if a better system exists?
- A user fee system would create significant administrative costs that could discourage growth and require new bureaucracies.
- A system funded entirely by direct users will be undercapitalized and underutilized, according to economists.
- Business aviation is an incremental user of a system that is designed, primarily, to accommodate the demands of the commercial airlines and their passengers.

The system of excise taxes on fuel has proven to be an efficient, effective means for general aviation, particularly business aviation, to pay its fair share of the costs of the national air transportation system. We are committed to assisting this subcommittee and others to formulate a clear understanding of this assertion when and where necessary.

Air Transportation System Modernization

The United States is the world leader in air transportation and boasts the safest air traffic control system in the world. To maintain this position, we must remain focused on modernization of that system. Fortunately, the technology needed to prepare the system to meet the challenges and opportunities of the 21st Century is either available or within reach. Global positioning satellites provide precise definition of location anywhere in the world, reliably and inexpensively. Data-link technology brings a wealth of information into the cockpit of modern aircraft. Small, fast and highly reliable computers provide safe and efficient flight management. Additional and accelerated investment in these technologies will enhance safety, security, efficiency and capacity. It will also lead to better use of limited FAA resources.

Free Flight, a concept developed by RTCA in cooperation with NBAA, FAA and the entire aviation community, is essential for enhancing the safety, security, efficiency and capacity of the nation's aviation system. Business aviation is an incremental user of a system that is designed, primarily, to accommodate the demands of the commercial airlines and their passengers. Deployment of elements contained within Free Flight Phase II is needed to pave the way for full implementation of the Free Flight concept. NBAA advocates investment in the following technologies, which are critical components of the Free Flight concept:

- **User Request Evaluation Tool** automatically predicts and notifies controllers of conflicts between aircraft or special activity airspace. By

allowing controllers to evaluate route change requests and to assign conflict free routing, the airspace users are able to save both time and fuel.

- **Traffic Management Advisor (TMA)** helps controllers optimize traffic flow into airports and efficiently use available runways and surrounding airspace.
- **Center TRACON Automation System (CTAS) Terminal** - the combination of **Traffic Management Advisor (TMA)** and passive **Final Approach Spacing Tool (pFAST)** - increases arrival acceptance and efficiency of air traffic operations in airspace surrounding major airports.
- **Collaborative Decision-Making (CDM)** provides a real-time exchange of data to facilitate better collaboration in managing aircraft traffic.
- **Surface Movement Advisor (SMA)** provides real-time information for better management of runway and taxiway space.
- **Satellite-Based Navigation and Landing Systems** - Moving from a ground-based navigation and landing system to a satellite-based Global Positioning System (GPS) will increase safety, efficiency and capacity.
- **Wide Area Augmentation System (WAAS) and the Local Area Augmentation System (LAAS)** augments the GPS signal for accuracy, integrity and continuity.
- **Automatic Dependent Surveillance Broadcast (ADS-B)** provides more precise knowledge of aircraft positions based upon aircraft broadcasts.
- **Loran C** should be maintained to provide a coordinate-based form of navigation until 2005. While NBAA has complete confidence that a satellite-based air traffic management system is safe and efficient, we believe that some backup navigation system is required. By using Loran C, the FAA will be able to phase out older, short-range navigation systems such as VORs and NDBs, which are costly to maintain.
- **Data Link** dramatically improves interaction between pilots and controllers. A robust controller-pilot data link facilitates the exchange of information regarding air traffic, weather, special use airspace, terrain data base and flight services between aircraft and ground systems. In addition, it enhances collaborative decision-making.
- **Aviation Weather Research** must continue to be pursued in order to take advantage of developing information technology.
- If efforts to implement Free Flight are to be successful, continued attention must be given to the **National Airspace Redesign**. NBAA continues to play an active role in that process through its work with the RTCA.

Air Traffic Control Is Inherently Governmental -- Privatization Is Not the Solution

For more than a decade several proposals to "privatize" the nation's air traffic control (ATC) system have arisen, with supporters asserting that this approach would improve system management and address the significant congestion and delays that have been experienced, primarily through more timely modernization supported by user fees (as opposed to excise taxes). The initial response of Congress to concerns expressed by opponents of this concept, including NBAA, was enactment of management reforms within the existing structure, including a fixed, five year term for the FAA Administrator and specific procurement and personnel modifications. Subsequently, Congress authorized \$40 Billion over three years for the FAA by enacting AIR-21, which also called for establishment of a Performance Based Organization (PBO) Board with a Chief Operating Officer, to report to the FAA Administrator and work in concert with a Management Advisory Council (MAC) to monitor and affect the ATC system.

NBAA believes that the FAA personnel responsible for providing ATC services do an excellent job and should continue to manage and operate the ATC system. Further, this is uniquely a governmental function in that it must be operated for all users as a monopoly. Further, a privatized ATC system could shift significant power to certain user groups, to the detriment of those with less representation on the Board of Directors. There also is the potential for raising safety concerns by creating two entities with conflicting missions. And, user fee funding is less efficient and more unpredictable than the current excise tax system.

NBAA observes that the management reforms enacted by Congress, combined with the healthy funding provided through AIR-21, have a significant effect on the progress toward system modernization and capacity enhancement. And, although these improvements could very well reduce congestion and delays by as much as 15 percent, the most effective course now is to focus on adding landing facilities (along with improved airway system organization), which could generate a 50 percent reduction in congestion and delays.

International and Regulatory Issues

In these unique times, marked by shifting priorities and a measure of future uncertainty, it is important to maintain focus on our leadership in the global aviation arena. Slowly, over the past several years, U.S. dominance in the international aviation and aerospace market has declined. Pressures from foreign businesses, foreign regulatory authorities and foreign economic markets have weakened the marketplace for American products. In this regard we applaud FAA's creation of a

new department within the Agency to focus solely on international issues and representation.

The aviation landscape has changed significantly since FAA's last reauthorization. A new department exists, the Department of Homeland Security, with the Transportation Security Administration exclusively in charge of aviation security; baggage screening machines populate our airport check-in lobbies; and general aviation *still* faces restrictions to Reagan National Airport (DCA) and to many international destinations. Nearly nineteen months after general aviation was first banned from DCA, despite the best efforts of this Subcommittee, Congress and the general aviation community, we still do not have a process to allow qualified general aviation aircraft access to the airport. Despite progress made in other areas, general aviation operations at DCA have been repeatedly blocked by those who refuse to even discuss the issue. We request that this reauthorization require the Administration to develop a process to allow qualified general aviation aircraft access to Reagan National Airport. The airport and the regional economy have suffered long enough.

Internationally, general aviation also faces continued restrictions. Shortly after 9/11, the FAA blocked all international access for general aviation except through six portal countries; Japan, Canada, Mexico, England, Scotland, Wales and Northern Ireland. A seventh, the Bahamas, was added several months later. These restrictions continue to cause difficulty for U.S. businesses requiring international access. A waiver system, developed by FAA and administered today by the TSA, allows operators to request permission for flights directly to other countries, providing sufficient notice is given. However, no one has been able to justify the need for this continued restriction. We request that this reauthorization require the Administration to rescind international arrival and departure restrictions for Part 91 aircraft.

Furthermore, we recommend the Transportation Security Administration Access Certificate (TSAAC) trial program currently underway at Teterboro Airport be approved on a permanent basis. This protocol should be expanded throughout the U.S. as a means of extending access to qualified Part 91 operators during periods of elevated threat level.

Finally, Public Law 104-264, Federal Aviation Authorization Act of 1996, Section 1214 required the FAA to revise section 91.321 of the Administration's regulations (14 C.F.R. 91.321), relating to the carriage of candidates in Federal elections, to make the same or similar rules applicable to the carriage of candidates for election to public office in State and local government elections. The Agency has yet to issue a proposal for rule change. While we recognize the importance of other issues faced by the Agency over the past many years, it is also important to recognize that FAA

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cannot ignore the law. This Subcommittee respectfully should require FAA compliance with Public Law 104-264, Section 1214.

Thank you for the opportunity to share our thoughts about the future of FAA's vital role in general aviation. Together we will meet the challenges in the next century of aviation.